

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) LARRY SPRIGGS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-2013-451-JHP-FHM
)	
(2) THE PHOENIX INSURANCE)	
COMPANY d/b/a TRAVELERS)	
INSURANCE, a Foreign Corporation,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant The Phoenix Insurance Company d/b/a Travelers Insurance, a Foreign Corporation (“Defendant”), files this Notice of Removal of this case from the District Court of Tulsa County, Oklahoma. In support of removal, Defendant states the following:

1. On June 26, 2013, Plaintiff Larry Spriggs filed a Petition in the District Court of Tulsa County, Oklahoma, captioned *Larry Spriggs v. The Phoenix Insurance Company d/b/a Travelers Insurance, a Foreign Corporation*, Case No. CJ-2013-03027 (“State Court Action”).

2. Defendant was served by certified mail with the Summons and Petition in the State Court Action on July 3, 2013.

3. Defendant is filing this Notice of Removal within thirty (30) days after receipt of Plaintiff’s Petition. Thus, under 28 U.S.C. § 1446(b), Defendant’s time to remove has not yet expired.

4. Plaintiff Larry Spriggs is a resident of the State of Oklahoma. Defendant is a Connecticut corporation with its principal place of business in Hartford, Connecticut. Therefore, complete diversity exists between the parties to this case.

5. In addition to complete diversity existing, the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, establishing this case is properly removed pursuant to 28 U.S.C. §§ 1332, 1441 and 1446. Plaintiff was an insured under an insurance contract between Defendant and Overhead Door Co. of Tulsa which provided UM/UM coverage in the amount of \$100,000.00. See Insurance Contract Declarations, Ex. 1. Following a motor vehicle accident on or about June 2, 2011, Plaintiff demanded the \$100,000.00 UM/UM policy limits under the applicable contract of insurance. See Petition, Ex. 2, ¶¶ 6-10. Although Defendant paid Plaintiff \$100,000.00 in UM benefits pursuant to the contract, Plaintiff alleges in his Petition that Defendant breached the insurance contract by failing to pay UM benefits owed to Plaintiff under the policy. See Ex. 2, ¶¶ 28-33. Specifically, Plaintiff alleges “Defendant Travelers has breached its contract of insurance and has wholly refused or neglected to pay Plaintiff the value of his damages” and “[s]aid failure constitutes a breach of contract of said insurance policy and the Plaintiff has sustained damages.” See Ex. 2, ¶ 33. Despite Travelers’ payment of policy limits to Plaintiff, Plaintiff admittedly intends to maintain the breach of contract claim for breach of the \$100,000.00 UM/UM policy. See July 18, 2013 Letter from Derrick DeWitt to Donald Smolen, Ex. 3. Therefore, the amount in controversy exceeds \$75,000.00, and the case is properly removable.

6. The United States District Court for the Northern District of Oklahoma is the appropriate court for filing a Notice of Removal from the State Court where Plaintiff’s State Court Action is pending, and accordingly, Defendant seeks to remove the State Court Action to this Court.

7. Upon receiving the federally-filed Notice of Removal, Defendant will file a copy of the Notice of Removal with the State Court, and will provide written notice to all counsel, all in accordance with 28 U.S.C. § 1446(d).

8. Pursuant to 28 U.S.C. § 1446 and LCvR 81.2, a copy of the docket sheet and a copy of all documents filed and/or served in the District Court of Tulsa County, Case No. CJ-2013-03027 are attached hereto. See Docket Sheet, Ex. 4; Petition, Ex. 2; Notice of Service of Process, Ex. 5; Return of Summons on The Phoenix Insurance Company d/b/a Travelers Insurance, Ex. 6.

9. Under the provisions of 28 U.S.C. §§ 1441(a), (b), and (c), and all other applicable statutes, all of which Defendant The Phoenix Insurance Company d/b/a Travelers Insurance, a Foreign Corporation, has complied with, this cause of action is removable to the United States District Court for the Northern District of Oklahoma.

Respectfully submitted,

s/Derrick T. DeWitt

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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of July 2013, I forwarded the above and foregoing document to the following:

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s/Derrick T. DeWitt _____